

IN SENATE OF THE UNITED STATES.

FEBRUARY 21, 1845.

Submitted, and ordered to be printed.

Mr. DIX made the following

REPORT:

[To accompany bill H. R. 152.]

*The Committee on Commerce, to whom was referred a bill from the House of Representatives, for the relief of Elliot Smith and Nathan Farnsworth, report :*

That in December, 1837, the ship Charles Wharton, with troops and military stores belonging to the United States, was wrecked at the entrance of Tampa Bay. Several small vessels boarded her, and some of them were employed to take off the troops and stores. Their services were paid for at the time by the United States quartermaster, Major Brant. The master of the schooner Rubicon received \$600 for services rendered in discharging the ship, and \$168 for hay which he threw overboard in order to put his own vessel in condition for the purpose; the master of the sloop George Washington received \$25; and the master of the schooner Johannes received \$300—making, in all, the sum of \$1,093 paid for the services and loss of property referred to. It also appears, by a supplementary report of the Quartermaster General, that a further sum of \$300 was paid to the master of the sloop Veto, for transporting a portion of the troops from Mullet Key to Fort Brooke.

Several claimants have, from time to time, appeared before Congress, asking compensation for similar services rendered on the same occasion; but, from the reports of the proper officers, it would seem that all the persons fairly entitled to compensation, with a single unimportant exception, have been fully paid. It is proper to say that there is some contradictory testimony. For instance: Captain Rogers, of the ship Charles Wharton, states that Captain Smith, of the schooner Coasting Trader, came to the assistance of the ship; threw some barrels overboard from the schooner, said to contain bread, and took from the ship about 130 of the United States troops; saved the guns, ammunition, baggage, &c. He also states, that the master of the schooner Benjamin D. Jackson (Nathan Farnsworth) rendered important services of the same character. Captain Britton Evans, of the volunteers, who was on board, concurs in the statement in relation to the Coasting Trader, so far as rendering valuable service is concerned. Captain Gatewood, of the United States cutter Jackson, certifies that the Coasting Trader had on board a cargo of bread,

which it was necessary to throw overboard to make room for the United States troops; and that she took on board about 130 men, and transported them from the wreck to the cutter. Albert Tuck, an agent of the Quartermaster's department, states that the Coasting Trader landed the volunteer corps from the ship, with their equipments, arms, and baggage.

On the other hand, it appears, from the reports of the Quartermaster General and the Surgeon General, the latter of whom was in command of the troops on board the ship, that the troops, consisting of about 280 volunteers from Philadelphia, were taken off by the schooner Rubicon and the sloop Washington. The Surgeon General states, with great distinctness, that the men were all taken off by these two vessels, and that he himself saw "the last man pass over the sides of the ship into the sloop" Washington. The whole transaction is detailed with the greatest particularity.

It would appear, by the official reports of these two officers, that the applicants to Congress went on board the ship as wreckers; that they might have carried the property left in the ship before some court of admiralty jurisdiction, and become entitled to salvage; and that they probably would have done so, if there had been enough left to compensate them for their trouble.

It appears also, by the testimony, that some provisions, amounting in value to about \$750, were landed and delivered in charge of the United States commissary of subsistence, and that no compensation for this service has been claimed.

It is exceedingly difficult to reconcile this conflicting testimony. But the committee have come to the conclusion that the testimony of the commanding officer of the troops, who was the responsible person present, who employed the vessels engaged in landing the men and stores, who alone was authorized to make contracts for the purpose, and see them executed, and on whose certificates a large sum has been paid, should prevail. There were some seven or eight vessels about the ship before she went to pieces; and, in the confusion of the scene, persons not directly responsible might well be mistaken as to the services rendered by each.

As has been already stated, some provisions were landed and delivered to the commissary of subsistence, by some person who is entitled to a fair compensation for his trouble; but, as the Quartermaster General observes, the person who delivered them must have a certificate from the officer who received them, and, on the production of the certificate, he may obtain a proper remuneration for his services.

The case is presented to the committee, accompanied by a bill from the House of Representatives. On a full examination of it, the committee are of opinion that it is inexpedient to clothe the Secretary of War, as the bill proposes, with an unlimited authority to compensate services of a disputed and doubtful character; and they recommend that the bill be indefinitely postponed.